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December 23, 2002

**VIA HAND DELIVERY**

Marlene H. Dortch, Esquire  
Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

**RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

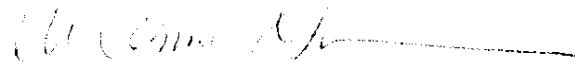
**Re: Notification of Ex Parte Communication  
MB Docket Nos. 02-277, 01-235, 96-197, 01-317, and 00-244**

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on December 19, 2002, George Mahoney, General Counsel and Secretary of Media General, Inc., John Feore of this office, and I met with Commissioner Jonathan Adelstein and Sarah Whitesell, his media legal advisor, to discuss Media General, Inc.'s interest in repeal of the newspaper/broadcast cross-ownership rule in all markets. Our discussions addressed Media General's reasons for repeal of the rule; review of the comments already filed in MM Docket Nos. 01-235 and 96-197; Media General's belief that spectrum scarcity no longer exists; and the public interest benefits, such as the delivery of more and better local news, that result from convergence of newspaper and broadcast properties. Media General distributed the attached hand-out at the meeting.

As required by section 1.1206(b), two copies of this letter are being submitted for each of the above-referenced dockets.

Very truly yours,

  
M. Anne Swanson

cc w/encl.: The Honorable Jonathan Adelstein  
Sarah Whitesell, Esquire

**PROMPT REPEAL OF THE NEWSPAPERBROADCAST CROSS-OWNERSHIP RULE  
WILL SERVE THE PUBLIC INTEREST AND IS COMPELLED BY THE 1996  
TELECOMMUNICATIONS ACT, RECENT COURT DECISIONS, AND AN  
EXTENSIVE FACTUAL RECORD THAT HAS ALREADY BEEN COMPILED**

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**The 1996 Telecommunications Act and Recent D.C. Circuit Decisions Require Prompt Repeal.**

➤ Congressional Intent -- Section 202(h):

“The Commission *shall* review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and *shall* determine whether any of such rules are necessary in the public interest as the result of competition. The Commission *shall* repeal or modify any regulation that it determines to be no longer in the public interest.”

➤ *Fox* Court: “The Commission’s wait-and-see approach cannot be squared with its statutory mandate promptly . . . to ‘repeal or modify’ any rule that is ‘no longer in the public interest.’” (*Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027, 1042, *rehearing granted*, 293 F.3d 537 (D.C. Cir. 2002))

➤ *Sinclair* Court: “In applying the statute, we have squarely considered and rejected the kind of cautionary approach employed by the FCC. . . .” (*Sinclair Broadcast Group, Inc. v. FCC*, 284 F.3d 148, 171 (D.C. Cir. 2002) (Sentelle, J, partially dissenting))

**The Burden Is on Those Who Seek To Retain the Rule**

➤ **As** shown by the record produced in response to the September 2001 *Notice of Proposed Rule Making* on the newspaperbroadcast cross-ownership rule, repeal has virtually unanimous support among regulated entities, and they have cited and filed numerous economic and programming studies that support repeal. The record, as compiled in that proceeding, is more than sufficient to sustain repeal.

➤ Consumer and labor groups have not **supported** their opinions about the need for the rule with any substantive, empirical studies that justify retention. None of the studies released by the FCC in October 2002 justifies retention.

➤ Media General and other newspapers represent the only industry *not* regulated by the FCC that is restricted from buying radio and television stations.

- The Newspaper/Broadcast Cross-Ownership Rule (adopted 27 years ago) is the only Commission mass media ownership rule that has never been modified to reflect the changing competitive marketplace.

#### **Repeal Assures Audiences of Enhanced Delivery of Local News and Information.**

- Media General believes that news belongs to the community and its delivery of news and information content is consumer-driven. Media General's content responds to local needs because that is the only way to build a saleable product. As the Commission found in 1975 when it adopted the rule and as the docket that has already been compiled clearly shows, cross-ownership enhances the delivery of news and information and leads to higher levels of non-entertainment programming.
- The Commission has a strong interest in ensuring the delivery of a strong local news product and enhancing the ability of local outlets to compete in both large and small markets. Localism is an important statutory goal.
- Media General today finds itself competing for readers and audience with national purveyors of non-local news (*e.g.*, *USA Today*, CNN) and with more recently emerging powerful television duopolies and vertically integrated cable companies. Media General expects soon to be competing with combined cable television/broadcast television operators. Repeal is necessary to allow Media General and other providers of local news to continue to compete and deliver their high quality news products.
- Perpetuation of the newspaper/broadcast cross-ownership rule actually disserves the public interest. As shown in Media General's initial and reply comments filed in response to the September 2001 *Notice of Proposed Rule Making*, with diminished network compensation and the increasingly high cost of producing quality local news content, issues in all communities, but particularly in smaller markets, over thirty local broadcast stations have cancelled newscasts on their facilities since 1998. Repeal of the rule would allow local newspapers, which are currently barred from owning television stations, to help reinvigorate struggling news operations.

#### **The Rule Has Not Served To Preserve or Enhance Diversity of Viewpoint.**

- Media General's experience demonstrates that common ownership does not diminish diversity. Media General's converged properties have independent news and editorial staffs that develop and deliver separate news and information products. Media General's outlets have expressed varying editorial opinions. Other commenting parties report following the same approach.
- The geographic areas that Media General's converged properties serve are frequently different. Consequently, the co-owned properties, as a matter of sound business practice, deliver varying news content and editorial voices to serve the differing demands created by the separate, but overlapping, coverage areas.

**Repeal of the Rule Will Not Harm Competition in Local Advertising Markets.**

- Studies submitted by Media General and the Newspaper Association of America in response to the September 2001 *Notice of Proposed Rule Making* show no statistically significant difference between advertising prices of cross-owned newspapers and those of other papers.
- The study on advertising substitutability released by the FCC in October 2002, shows that newspapers and broadcast stations operate in separate advertising markets and that the two media are complements rather than substitutes.